

JOHN J. SANSONE, County Counsel
County of San Diego
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Attorneys for Defendant County of San Diego

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

KATHLEEN COYNE, an individual
Plaintiff,

v.

COUNTY OF SAN DIEGO, a public
entity; COUNTY OF SAN DIEGO
DEPARTMENT OF THE PUBLIC
DEFENDER, a public agency; and DOES
1-25, inclusive

Defendants.

CASE NO. 08-cv-0639 JLS (LSP)

**DEFENDANT COUNTY OF
SAN DIEGO'S ANSWER TO
COMPLAINT**

Courtroom: 6
Honorable Janis L. Sammartino

Defendant County of San Diego on behalf of itself and its non-suable, erroneously named agency (Department of the Public Defender) hereby answers Plaintiff's Complaint filed in State Court on February 29, 2008 and removed to Federal Court on April 8, 2008 as follows:

1. Answering paragraph 1, Defendant admits that plaintiff Kathleen Coyne is an adult female, as to the remaining allegations in this paragraph, Defendant lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations.

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2. Answering paragraphs 2 and 3, Defendant admits that the County of San Diego is a public entity that operates a Department known as the Office of the Public Defender. The County of San Diego is organized under the laws of the State of California.

3. Answering paragraphs 4, 5, 6, Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis, deny.

4. Answering paragraphs 7 and 20, Defendant admits that the County of San Diego is an employer, the remaining allegations in this paragraph call for a legal conclusion, requiring no response.

5. Answering paragraphs 8 and 9, the paragraphs call for a legal conclusion, requiring no response.

6. Answering paragraph 10, Defendant admits that plaintiff was first employed by the County of San Diego as a Deputy Public Defender in January 1989. As to the remainder of paragraph 10, Defendant lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegation, and on that basis, deny.

7. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 11, 15, 25, 32, and 38.

8. Answering paragraph 12, Defendant admits that plaintiff was assigned to work in the El Cajon branch of the San Diego Superior Court. As to the remaining allegations in this paragraph, deny.

9. Answering paragraph 14, Defendant admits that four female candidates filed a civil service administrative action appealing their denial. As to the remaining allegations in this paragraph, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations, and on that basis, deny.

10. Defendant admits the allegations contained in paragraph 13, 18, 19, 21, 27, 28, and 34, except to the extent such allegations contain legal conclusions requiring no response.

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1 11. Answering paragraph 16, Defendant admits that plaintiff was transferred
2 from the El Cajon branch to the Juvenile Delinquency branch of the San Diego Superior
3 Court. As to the remaining allegations in this paragraph, deny.

4 12. Defendant repeats and incorporates by reference the responses contained in
5 paragraphs 17, 26, and 33.

6 13. Defendant denies generally and specifically each and every allegation
7 contained in paragraphs 22, 23, 24, 29, 30, 31, 35, 36, and 37.

8 **AFFIRMATIVE DEFENSES**

9 **FIRST AFFIRMATIVE DEFENSE**

10 As a first, separate and distinct affirmative defense to the Complaint, Defendant
11 County of San Diego alleges that the Complaint fails to state facts sufficient to constitute
12 a cause of action upon which relief can be granted.

13 **SECOND AFFIRMATIVE DEFENSE**

14 As a second, separate and distinct affirmative defense to the Complaint, Defendant
15 alleges that the alleged actions, communications, and conduct, if any, of Defendant's
16 were not a proximate cause of damages to plaintiff.

17 **THIRD AFFIRMATIVE DEFENSE**

18 As a third, separate and distinct affirmative defense to the Complaint, Defendant
19 County of San Diego alleges that plaintiff's claims are barred in whole or in part by her
20 failure to exhaust her administrative remedies.

21 **FOURTH AFFIRMATIVE DEFENSE**

22 As a fourth, separate and distinct affirmative defense to the Complaint, Defendant
23 alleges that Defendant's agents were privileged to perform any and all of the actions
24 alleged and otherwise exercised reasonable diligence in the discharge of duties applicable
25 to them. Therefore, Defendant is immune from suit under both absolute and qualified
26 immunity.

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1 FIFTH AFFIRMATIVE DEFENSE

2 As a fifth, separate and distinct affirmative defense to the Complaint, Defendant
3 alleges that it had a legitimate non-discriminatory reason for its alleged actions,
4 communications and/or conduct.

5 SIXTH AFFIRMATIVE DEFENSE

6 As a sixth, separate and distinct affirmative defense to the Complaint, Defendant
7 asserts it presently lacks knowledge or information sufficient to form a belief as to
8 whether other affirmative defenses exist. Defendant therefore reserves the right to assert
9 additional affirmative defenses if it appears from discovery that other affirmative
10 defenses are applicable.

11 WHEREFORE, said Defendant prays as follows:

- 12 1. That the action be dismissed with prejudice;
13 2. That Plaintiff takes nothing by this action;
14 3. That Defendant recovers its costs of suit incurred herein, including
15 attorney's fees; and for other and further relief as the Court deems just and proper.

16
17 DATED:

JOHN J. SANSONE, County Counsel

18 4/17/08

19 By

20 
WILLIAM H. SONGER, Senior Deputy
Attorneys for Defendant County of San Diego

Declaration of Service

I, the undersigned, declare:

That I am over the age of eighteen years and not a party to the case; I am employed in, or am a resident of, the County of San Diego, California where the service occurred; and my business address is: 1600 Pacific Highway, Room 355, San Diego, California.

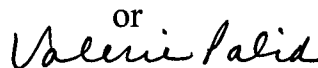
On April 17, 2008, I served the following documents: **Defendant County Of San Diego's Answer To Complaint** in the following manner:

- ☐ By personally delivering copies to the person served.
- ☐ By placing a copy in a separate envelope, with postage fully prepaid, for each addressee named below and depositing each in the U. S. Mail at San Diego, California.
- ☐ By faxing a copy to the person served. The document was transmitted by facsimile transmission and the transmission was reported as complete and without error. The transmission report was properly issued by the transmitting facsimile machine.
- ☒ By electronic filing, I served each of the above referenced documents by E-filing, in accordance with the rules governing the electronic filing of documents in the United States District Court for the Southern District of California, as to the following parties:

Mark A. Bennett, Esq.
Law Office of Mark Alan Bennett
1111 Sixth Avenue, Suite 404
San Diego, California 92101
Tel. (619) 237-5308
Fax. (619) 237-5309
(Attorneys for Plaintiff Kathleen A. Coyne)

I declare under penalty of perjury that the foregoing is true and correct.
Executed on April 17, 2008, at San Diego, California.

By: s/ATTORNEY'S NAME

or


s/VALERIE PALID